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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,901	01/10/2001	Reiner Kraft	ARC9-2000-0048-US1	8326
23334	7590	05/18/2004	EXAMINER	
FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI & BIANCO P.L. ONE BOCA COMMERCE CENTER 551 NORTHWEST 77TH STREET, SUITE 111 BOCA RATON, FL 33487			LASTRA, DANIEL	
		ART UNIT		PAPER NUMBER
		3622		
DATE MAILED: 05/18/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/757,901	KRAFT ET AL.
	Examiner	Art Unit
	DANIEL LASTRA	3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 March 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3,5-10 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,5-10 and 12-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

### **DETAILED ACTION**

1. Claims 1-3, 5-10 and 12-19 have been examined. Application 09/757,901 (**PERSONALIZED PROFILE BASED ADVERTISING SYSTEM AND METHOD WITH INTEGRATION OF PHYSICAL LOCATION USING GPS**) has a filing date 01/10/01.

#### ***Response to Amendment***

2. In response to office action dated 11/28/03, Applicant amended claims 1, 9, 13, cancel claims 4, 11 and 20-22. Applicant's arguments, filed 03/01/04, with respect to the rejection(s) of amended claim(s) 1 under Herz have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Granik et al (U.S. 2002/0010757).

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-10, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al (U.S. 6,571,279) in view of Granik et al (U.S. 2002/0010757).

As per claim 1, Herz teaches:

A method for personalized profile based advertising associated with a network of

hub processing units coupled to a plurality of information processing units over a network, the method of personalized profile based advertising on a first hub processing unit comprising the steps of:

entering an initializing routine to initialize hardware and software of the first hub-processing unit by performing the sub-steps of:

an administrative receiving step of receiving administrative commands from a user to edit software on the first hub-processing unit (see column 20, lines 35-65);

Herz does not expressly teach a registration step of receiving registration information from a second hub-processing unit and from information processing units associated with the network, *wherein the second hub-processing unit is a merchant server*. However, Granik teaches a method that support merchants that want to set up and track their own advertisement campaigns. Merchants register with a general web server and set up their own campaigns through an administrative interface, where advertisement are targeted based on users' profiles, such as geographic target market, e.g., state, city (see page 4, paragraph 31; page 5, paragraph 41). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that merchants would register to the Herz's location-enhanced information delivery system 100 (see Herz column 17, lines 34 – column 18, line 16) for the purpose of setting up the rules for targeting certain users with certain ads on the basis of user profile attributes, as taught by Granik. The location enhanced information delivery system augments the data that is available to advertiser with location information and would allow location specific advertisements.

Herz teaches:

a profile receiving step of receiving profile data and location data about locations of the information processing units (see column 4, lines 36-48, column 5, lines 35-61);

entering an operational state for the personalized profile based advertising and performing the sub-step of:

gathering by a first manager associated with the first hub processing unit a received location data as well as a user profile data associated with an information processing unit stored in a database associated with the first hub processing unit (see column 4, lines 35-47; column 5, lines 35-61; column 8, lines 51-65; column 10, line 53 – column 11, line 10; column 15, line 55 – column 16, line 34; column 17, lines 25-65).

As per claim 2, Herz teaches:

The method as defined in claim 1, wherein the registration sub-step of receiving registration information from a second hub processing unit and from information processing units associated with the network further comprises the registration information from the second hub processing unit comprises registration information that has been modified by a user (see column 9, lines 33-45; column 13, lines 18-47).

As per claim 3, Herz teaches:

The method as defined in claim 1, wherein the registration sub-step of receiving registration information from a second hub processing unit and from information processing units associated with the network further comprises receiving registration information from a second hub processing unit wherein the second hub processing unit is an initialized hub processing unit (see column 5, lines 35-61).

As per claim 5, Herz teaches:

The method as defined in claim 1, wherein the registration sub-step of receiving registration information from a second hub processing unit and from information processing units associated with the network further comprises the information processing units comprising wireless components (see column 2, lines 1-67).

As per claim 6, Herz teaches:

The method as defined in claim 1, wherein the registration sub-step of receiving registration information from a second hub processing unit and from information processing units associated with the network further comprises the information processing units being initialized information processing units (see column 3, lines 47-67).

As per claim 7, Herz teaches:

The method as defined in claim 1, wherein the information processing units comprise information processing units selected from the group of information processing units consisting of cellular phones, personal data assistants, car computer systems and personal communication devices (see column 2, lines 53-55; column 7, lines 3-6).

As per claim 8, Herz teaches:

The method as defined in claim 1, wherein the step of entering an operational state for the personalized profile based advertising further comprises performing after the gathering sub-step the further sub-steps of:

determining whether or not the user profile matches a merchant profile and if the user profile matches a merchant profile matches then performing the secondary sub-steps of:

forwarding the user location and profile to the second hub processing unit which performs further processing (see column 17, lines 34-65); and

checking whether or not the information processing unit is turned on and if the information processing unit is turned on then continuing the personalized advertising process and if the information processing unit is not turned on then, ending the process for the information processing unit (see column 2, lines 19-25); wherein, if the user profile does not match the merchant profile then performing the secondary sub-step of:

checking whether or not the information processing unit is turned on and if the information processing unit is turned on then continuing the personalized advertising process; otherwise, ending the process for the information processing unit (see column 17, lines 34-65).

As per claim 9, Herz teaches:

A method for personalized profile based advertising associated with a network of hub processing units coupled to a plurality of information processing units over a network, the method of personalized profile based advertising on a second hub processing unit *comprising a merchant server* comprising the steps of:

Herz fails to teach *registering by sending registration information to a hub processing unit*. However, the same rejection applied to claim 1 is applied to claim 9.

Herz teaches:

receiving location data and user profile data about an information processing unit from a first hub processing unit (see column 4, lines 36-48; column 1, lines 46-63)

generating a personalized advertisement based upon the received location data as well as a user profile data associated with the information processing unit (see column 1, lines 46-63; column 4, lines 36-49); and

forwarding the personalized advertisement to the information processing unit for display on an output device (see column 5, lines 35-61; column 7, line 1-6; column 4, lines 49-67).

As per claim 10, Herz teaches:

The method as defined in claim 9, wherein the information processing units comprise information processing units selected from the group of information processing units consisting of cellular phones, personal data assistants, car computer systems, wireless systems and personal communication devices (see column 7, lines 5-6).

As per claim 12, Herz teaches:

The method as defined in claim 9, wherein the step of generating a personal advertisement further comprises the sub-steps of:

searching for advertisements in a database associated with the second hub processing unit for any ad profiles that match a user profile (see column 17, lines 34-65) and if there are ads that match then performing the secondary sub-steps of:

determining whether or not a user location is close to a sales location and if user location is close to a sales location then performing the tertiary sub-steps of:

adding location information into the advertisement (see column 17, lines 34-65);

adding personal data into the advertisement and terminating the generating of personal advertising step (see column 17, lines 34-65; column 6, lines 16-34);

wherein if the user location and sales location are not if user location is close to a sales location then performing the tertiary sub-steps of:

adding personal data into the advertisement; and terminating the generating of personal advertising step; wherein if there are no advertisements that match a user profile then terminating the generating of personal advertising step (see column 17, lines 34-65; column 6, lines 16-34).

As per claim 13, Herz teaches:

The method as defined in claim 12, wherein the adding of personal data tertiary sub-steps further comprise adding personal data selected from the group of personal data consisting of a name, interests, age, background, education, hobbies and other personalized data relating to the user (see column 6, lines 16-34).

Claims 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al (U.S. 6,571,279) in view of Burke et al (U.S. 6,604,681) and further in view of Stewart (U.S. 6,452,498).

As per claim 14, Herz teaches:

A method for personalized profile based advertising associated with a network of hub processing units coupled to a plurality of information processing units over a network, the method of personalized profile based advertising on a first hub processing unit comprising the steps of:

detecting an active information processing unit (see column 2, lines 20-25; column 4, lines 6-25);

connecting to the active information processing unit (see column 17, lines 34-65);

requesting user location records and profile from the active information processing unit and if the location records (see column 1, lines 46-63; column 4, lines 36-48) exist then performing the sub-steps of:

receiving active information processing unit location records (see column 17, lines 25-65) ;

searching for sales locations close to the user location records (see column 17, lines 25-65);

determining if the user location records indicate if a user is in a sales location (see column 26, line 63 – column 27, line 35)

and if the user is in a sales location then performing the sub-steps of:

loading map information from a first map database (see column 27, lines 1-5);

determining if a user profile exists and if a user profile exists then performing the sub-steps of (see column 27, lines 1-5):

searching for a product in a products database (see column 27, lines 1-7);

determining if any product matches the user profile (see column 27, lines 1-7);

Herz fails to teach:

and if a product matches the user profile then performing the sub-steps of:

generating a first map;

sending the first map to the active information processing unit;

wherein if no product matches the user profile then performing the sub-steps of:

generating a second map;

sending the second map to the active information processing unit;

wherein if a user profile does not exist then performing the sub-steps of:

generating a third map;

sending the third map to the active information processing unit;

wherein if the user location records indicate that a user is not in a sales location  
then performing the sub-steps of:

loading map information from a second map database;

determining user direction from the user location records;

creating a fourth map;

sending the fourth map to the active information processing unit;

wherein if the user location records do not exist then performing the sub-steps of:

receiving an error message from the active information processing unit.

However, Burke et al teach a shopping assistant system where the position of a shopper is conveyed to the consumer by a hand-held device as text, maps, etc. "If the consumer's location is known by the system, such as by pinpointing the shopper's location by global position system means or other electronic position means, the system is capable of providing the consumer with directions to the product to be located. Programs well known in the art are utilized to determine the appropriate path between the current position of the consumer and the location of the desired product" (see column 11, lines 10-40). Stewart teaches a system that provides geographic-based

advertisements. "Since the user's location is established with relative precision by the location of the AP, the service provider can respond with a message such as "Straight ahead to exit 3, turn right and proceed two blocks" (see column 5, lines 1-10). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that a vendor would use the Herz system to request to send a targeted advertisement to users with a profile that indicate a interest to the vendor's products and to users located within certain amount of miles from the vendor's physical location. Then the user would use the Stewart system to obtain directions to get to the vendor's physical location and once inside the store, the user would use the Burke system to obtain directions to find the product. This feature would increase the probability that a user would respond positively to a product advertisement as the user not only is targeted by user profile and geographic location but also receives directions to the product location.

As per claim 15, Herz teaches:

The method as defined in claim 14, wherein the first hub processing unit comprises an advertisement server (see column 16, lines 1-34).

As per claim 16, Herz teaches:

The method as defined in claim 14, wherein the information processing units comprise information processing units selected from the group of information processing units consisting of cellular phones, personal data assistants, car computer systems and personal communication devices (see column 2, lines 53-55).

As per claim 17, Herz teaches:

The method as defined in claim 14, wherein the active information processing unit records comprise at least two location records for the active information processing unit (see column 17, lines 34-65).

As per claim 18, Herz fails to teach:

The method as defined in claim 14, wherein the first map comprises a map to the matched product, the second map and third maps comprise generic aisle maps for the sales location, and the fourth map comprises a driving map from a user location to a sales location. However, Burke teaches a map to the matched product and generic aisle maps for the sales location (see column 11, lines 10-40; column 12, lines 7-17). And Stewart teaches a driving map from a user location to a desire place (see column 5, lines 1-10). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that a vendor would use the Herz system to request to send a targeted advertisement to users with a profile that indicate a interest to the vendor's products and to users located within certain amount of miles from the vendor's physical location. Then the user would use the Stewart system to obtain directions to get to the vendor's physical location and once inside the store, the user would use the Burke system to obtain directions to find the product. This feature would increase the probability that a user would respond positively to a product advertisement as the user not only is targeted by user profile and geographic location but also receives directions to the product location.

As per claim 19, Herz fails to teach:

The method as defined in claim 14, wherein the first map database comprises sales location aisle map information and the second map database comprises road map information. However, Burke teaches a sales aisle map information (see column 11, lines 10-40; column 12, lines 7-17). And Stewart teaches a road map information (see column 5, lines 1-10). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that a vendor would use the Herz system to request to send a targeted advertisement to users with a profile that indicate a interest to the vendor's products and to users located within certain amount of miles from the vendor's physical location. Then the user would use the Stewart system to obtain directions to get to the vendor's physical location and once inside the store, the user would use the Burke system to obtain directions to find the product. This feature would increase the probability that a user would respond positively to a product advertisement as the user not only is targeted by user profile and geographic location but also receives directions to the product location.

#### ***Response to Arguments***

4. Applicant's arguments, filed 03/01/04, with respect to the rejection(s) of claim(s) 1 under Herz have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Granik et al (U.S. 2002/0010757). The Applicant argues that amended claim 9 include the step of having a second processing unit, or merchant server, registering with the present invention so as to provide targeted advertising based on the location of the mobile telephones, the profile of the mobile users, or both. The Examiner

answers that claim 9 recites the method steps of: "registering by sending registration information to a hub processing unit; receiving location data and user profile data...forwarding the personalized advertisement to the information processing unit for display on a output device". The method step of claim 9 does not mention that a merchant server is registering with a hub processing unit. Therefore, the Applicant is arguing features that are not in the claim. However, for purpose of art rejection, the Examiner would interpret claim 9 as include the step of having a second processing unit, or merchant server, registering with the present invention so as to provide targeted advertising based on the location of the mobile telephones, the profile of the mobile users, or both.

The Applicant argues regarding rejections of claims 14 and 18-19 that the combination of Herz, Burke and Stewart, as suggested by the Examiner, destroys the intent and purpose of Burke because the intent, purpose and function of Burke is to allow a user or consumer to solicit information on a particular product; in contrast to the purpose of the present invention that is to provide targeted advertising to a consumer based on the consumer's location and profile. The Examiner answers that Herz teaches in column 26, line 63 – column 27, line 7 that "Utilizing the location enhanced information delivery system 100, smart shopping carts equipped with bar code sensors can be used to collect data on customer purchases and present location as the customer shops. Customer detection location for such systems utilize infrared detectors mounted on the ceiling of the store, which enables triangulation of the shopper's present location. Historic and real time profile updates to the UID can be used to update an

electronic shopping list, for example in addition to general product location information, ideal shopping route can be recommended from each item to the next closest on the electronic shopping list". Burke teaches in column 6, lines 15-30 "The present invention is a system and method to aid a shopper by providing qualitative product information or product location information to the shopper during his/her shopping experience. Generally, the system comprises a portable device, a processor, and a database. The portable device is sized to permit the shopper to have the device with him/her while shopping. The device may be a hand-held computer, cellular telephone, telephone, personal digital assistance, or other hand-held or operable computing device. The portable device may also comprise a device attached to the shopping cart or basket used by the shopper". Therefore, Herz teaches the In-Store application of his system and therefore, Burke and Herz can be combined.

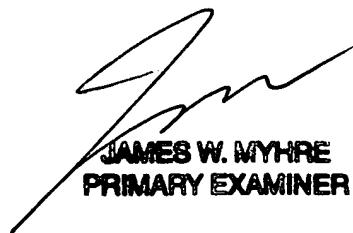
### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

DL  
Daniel Lastra  
May 7, 2004



JAMES W. MYHRE  
**PRIMARY EXAMINER**